

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14246 of Orval Hansen, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against dividing a lot resulting in the violation of the lot area and width requirements (Sub-sections 1302.2 and 3301.1), the lot occupancy requirements (Sub-sections 1302.2 and 3303.1) and the open court width requirements (Sub-sections 1302.2 and 3306.1) for a proposed subdivision of three improved lots into two improved lots in an R-4 District at premises 322 and 324 East Capitol Street, N.E., (Square 786, Lots 802, 836 and 837).

HEARING DATE: February 13, 1985

DECISION DATE: February 13, 1985 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the north side of East Capitol Street between 3rd and 4th Streets and is known as premises 322 and 324 East Capitol Street, N.E. The site is in an R-4 District.

2. For the first time since it was built in May, 1884, the subject property located at 322 East Capitol Street was sold in June, 1984. The settlement was delayed two years because a survey of the property revealed that the three story and basement brick townhouse occupied more land than that described for the subject lot 802, 322 East Capitol Street, N.E. To correct the title, a quitclaim deed was recorded, entitling the new owners to the 3.2 foot wide strip of land to the east of lot 802, upon which part of their townhouse has always stood.

3. The quitclaim deed subdivided former lot 801, 324 East Capitol Street, N.E. into lot 837, which the two story frame dwelling has actually occupied, and lot 836 upon which part of 322 East Capitol Street has stood.

4. After receiving title and deeds to both lots 802 and 836, the owners of 322 East Capitol Street proceeded with the architectural and engineering drawings necessary to restore the residence. A building permit for the interior renovation work was obtained and the construction contract signed December 4, 1984. This work has been started and is scheduled for completion in the Spring of 1985.

5. A building permit for exterior modifications cannot be obtained until a record lot has been processed joining lot 802 to the newly formed lot 836. This delay in scheduling has been of considerable cost to the owners of 322 East Capitol Street. They are not able to occupy the premises for which they are now paying taxes and making mortgage payments.

6. This new subdivision changes none of the existing conditions for either 322 or 324 East Capitol, NE. It merely seeks to create a record lot that reflects the actual lot dimensions upon which the brick townhouse was built in 1884.

7. Lot 801, 324 East Capitol Street, was undersized even before it was subdivided to create lot 837 and was too narrow to conform to the Zoning Regulations. The existing two-story frame dwelling has always occupied more than forty percent of the lot and has an inadequate side yard. The owner has a valid certificate of occupancy for office use. All the variances and nonconforming use listed in the memorandum from the Zoning Administrator were existing prior to the subject application, and will be unaffected by the outcome of this application.

8. For 322 East Capitol Street, the new subdivision will provide a record lot of conforming size. Primarily, it will allow the owner to proceed with improvements to the exterior of his property that are allowed as a matter-of-right and are in conformance with the Building Code and Zoning Regulations of the District of Columbia. It completes the legal definition of the property to conform to existing conditions that were initiated with the quitclaim deed prior to settlement.

9. No modification is being sought for the building footprint, building size or use of either building. The approval of the proposed subdivision of the newly formed three lots into two lots will result in the conformance of the recorded dimensions of the properties to their actual dimensions and in the continued residential use of 322 East Capitol Street and in the continued office/residential use of 324 East Capitol Street.

10. Advisory Neighborhood Commission 6B filed no recommendation on the application.

11. The Stanton Park Neighborhood Association, by letter of February 4, 1985, reported that it had no objection to the application.

12. There was no opposition to the application at the Public Hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan.

The Board concludes that the applicant has met the burden of proof. The relief requested is of a technical nature. There will be no change in either the lot occupancy, building size, or use of either property. The total area of the three former lots remains the same, although that area is now contained in only two lots. The approval of the proposed subdivision of the three lots into two lots will result in the continued residential use of the property at 322 East Capitol Street and the continued office/residential use of the property at 324 East Capitol Street. The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. ACCORDINGLY, it is ORDERED that the application is GRANTED.

VOTE: 4-0 (John G. Parsons, William F. McIntosh, Douglas J. Patton and Carrie L. Thornhill to grant; Charles R. Norris not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

20 MAY 1985

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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